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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,147	07/09/2001	Nicholas B. La Thangue	620-149	4292

23117 7590 04/11/2006

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EXAMINER

YU, MISOOK

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/900,147	Applicant(s) LA THANGUE ET AL.	
	Examiner MISOOK YU, Ph.D.	Art Unit 1642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-37 is/are pending in the application.
4a) Of the above claim(s) 33-35, 37 is/are withdrawn from consideration.
5) ☒ Claim(s) 21, 25 and 26 is/are allowed.
6) ☒ Claim(s) 22-24, 27, 30-32, and 36 is/are rejected.
7) ☒ Claim(s) 28 and 29 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 21 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/308,935.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 33-35 and 37 drawn to method remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) for reasons in the Office action mailed on 6/18/2003.

Claims 21-37 are pending and claims 21-32, and 36 are under consideration.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

Claim Rejections - 35 USC § 102, Maintained

Claims 22-24, 27, 30-32, and 36 **are rejected** under 35 U.S.C. 102(e) as being anticipated by US Pat 5,863,757 (filing date of May 11, 1995).

Claims are interpreted as drawn to a fragment of SEQ ID NO:1 (claims 22-24). Claim 27 is interpreted as drawn to a polypeptide comprising SEQ ID NOs 2-7 as the first portion, wherein said polypeptide further comprises a sequence of amino acids not naturally contiguous to the first portion in DP-1. Claims 30-32, and 36 are broadly interpreted as drawn to composition comprising a polypeptide comprising SEQ ID NO:1 or fragment thereof and pharmaceutically acceptable carrier (claims 30, 32) or a cytostatic or cytotoxic agent (claim 31, and 36).

Applicant argues that the GST sequence of the '757 patent does not meet the limitation of "1 to 5 amino acids residues" of the present invention.

This argument has been considered fully but unpersuasive. As stated in the previous Office action, SEQ ID NO: 13 (listed in column 37 and 38) of US Pat 5,863,757

is a fragment of SEQ ID NO:1 (i.e. amino acid residue #5 to 21). Since claim 22 is drawn to any fragment of SEQ ID NO: 1, the 17 amino acid residues SEQ ID NO: 13 of the prior art sequence is a fragment consisting of the instant SEQ ID NO: 1 from residues from 5 to 16, attached to 5 amino acids at its C-terminus. The new limitation "an amino acid sequence" in claim 27, and "a polypeptide of SEQ ID NOL 1" are also interpreted as a fragment of the various recited SEQ ID NOs.

As for claim 27, the claim is not limited to 1-5 amino acids, thus GST sequence reads on the attached sequence because a GST sequence is not a naturally occurring sequence of SEQ ID NOs 1-7.

The rejection of claims 21, 27, and 28 under 35 U.S.C. 102(b) as being anticipated by Chin-Lee Wu et al., (May 1995, Molecular and Cellular Biology, vol. 15, pages 2536-2546) is withdrawn in view of the amendment.

The rejection of claim 25 under 35 U.S.C. 102(b) as being anticipated by Dynlacht et al., Proc Natl Acad Sci U S A. 1994 Jul 5;91(14):6359-63 is withdrawn in view of the amendment.

Any other rejection not repeated here is also withdrawn.

Claim Rejections - 35 USC § 112, Withdrawn

The rejection of claim 36 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention is withdrawn in view of the applicant's explanation of the scope.

Conclusion

Claims 28, and 29 are objected because they depend on the rejected base claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MISOOK YU, Ph.D. whose telephone number is 571-272-0839. The examiner can normally be reached on 8 A.M. to 5:30 P.M., every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1642

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Misook Yu", with a stylized flourish at the end.

MISOOK YU, Ph.D.
Primary Examiner
Art Unit 1642